



OFFICE OF
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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[REDACTED]

[REDACTED]

Dear [REDACTED]:

Thank you for your letter of February 29, 2000, in which you inquired regarding the requirement to report cancellation of indebtedness income. In your letter, you stated that you received a Form 1099-C reporting cancellation of indebtedness income and that your liabilities exceed your assets.

Section 108(a)(1)(B) of the Internal Revenue Code states that "Gross income does not include any amount which (but for this subsection) would be includible in gross income by reason of the discharge (in whole or in part) of indebtedness of the taxpayer if ... the discharge occurs when the taxpayer is insolvent." Section 108(a)(3) Insolvency exclusion limited to amount of insolvency, states that "In the case of a discharge to which paragraph (1)(B) applies, the amount excluded under paragraph (1)(B) shall not exceed the amount by which the taxpayer is insolvent."

Section 108(d)(3) states that "For purposes of this section the term "insolvent" means the excess of liabilities over the fair market value of assets ... determined on the basis of the taxpayer's assets and liabilities immediately before the discharge."

Therefore, if immediately before the discharge of the indebtedness reported on the Form 1099-C, liabilities exceeded assets in an amount at least equal to the indebtedness discharged, the indebtedness discharged is not includible in income under section 108(a)(1)(B). However, a taxpayer applying this exclusion is required to reduce certain tax attributes described in section 108(b).

A taxpayer excluding income from a discharge of indebtedness from gross income is required to attach Form 982 to that taxpayer's tax return, to report the total amount of

discharged indebtedness excluded from gross income, and the amount applied to reduce certain tax attributes.

Thank you for your inquiry regarding this matter.

Sincerely,

Assistant Chief Counsel,
(Income Tax & Accounting)

by _____
Christopher F. Kane
Assistant to the Chief, Br. 3